IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 10590 of 2007

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

ITD CEMENTATION INDIA LTD & 8 - Applicant(s)
Versus
DHARMESH M PATEL,PROPRIETOR OF M/S.AASTHA ENGINEERING CO. & 1 - Respondent(s)

==========

Appearance :
MR MB GANDHI WITH MR RAJESH K KANANI WITH MR CHINMAY M GANDHI for Applicant(s) : 1 - 9.
None for Respondent(s) : 1,
MR KT DAVE APP for Respondent(s) : 2,

==========

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 11/12/2007

ORAL JUDGMENT

1. Present is the classic example of abuse of process of court and the criminal proceedings and abuse of power by the police and to certain extent by the

learned Magistrate. For a pure and simple dispute of civil nature for the alleged recovery of the amount pursuant to the alleged contract entered into between the complainant and the accused person, a private criminal complaint came to be filed only for the purpose of recovery of the alleged dues and civil dispute has been converted into a criminal dispute. Present is also a classic example of illegal order passed by the learned Magistrate initially passing an order for investigation by the Police Inspector, Navrangpura Police Station, Ahmedabad under sec.156(3) of the Code of Criminal Procedure against the accused persons residing outside his local jurisdiction i.e. residing at Mumbai and next day straightway issuing Non-Bailable Warrants under Sec.70 of the Code of Criminal Procedure against the accused persons and thereafter the investigating officer has gone to serve the warrants and summons upon the accused persons at Mumbai and agreement of settlement is executed into on the very day (inspite of civil litigation pending); cheques are obtained and immediately thereafter the complaint is

withdrawn.

2. Few facts and chronological events, which are necessary for determination of the present petition, in nutshell are as under:-

3. The respondent No.1 herein – Dharmesh M. Patel, proprietor of M/s.Astha Engineering Company of Ahmedabad, who claims to be sub-contractor of original accused No.1 - ITD Cementation India Limited filed a complaint in the court of the earned Metropolitan Magistrate, Court No.13, Ahmedabad against one ITD Cementation India Limited, Mumbai and other accused i.e. Managing Director, Directors, Dy.Director, Senior General Manger, General Manager of the aforesaid Company, who are residing at Mumbai, for the offences punishable under sections 406, 420, 120-B and 114 of Indian Penal Code. The said complaint was registered as Inquiry Case No.49 of 2007 on 30/8/2007. It was alleged in the complaint that the Government of Gujarat had decided to declare riverfront and a company named Sabarmati

Riverfront Development Corporation was incorporated, by which the work contract was given to the original accused No.1 i.e. ITD Cementation India Ltd. and the said company had given sub-contract to the complainant. It was further alleged in the complaint that initially on 3/2/2005, there was an oral talk between the complainant and the accused and on that basis, in presence of one Rajeshkumar Chunilal Patel and and Ashokkumar Radheshyam Kakhani talked had taken place and work of Diaphgram Wall and Anchor Slab as well as excavation / filling work was given to the original complainant. It was further alleged in the complaint that on 25/1/2006, a written contract had taken place and as per the said contract, the work was to be executed and the work was to be completed on or before 15/7/2006. It was further alleged in the complaint that thereafter the work was started by the complainant and various machineries like vibrator roller and other things were brought on the site and instead of 35 workers, the complainant engaged 65 workers and the work was initiated. However, for the

want of supply of drawings, the work could not proceed further. The work was to be executed in the water itself. It was further alleged in the complaint that, however, the accused had complained abuot the work being not properly done and not speedily done and ultimately though the work to the tune of 70% was completed and the complainant completed the work of the value of Rs.1.20 Crore, the last bill was drawn on 10/6/2006 for which Rs.15 Lacs payment was made and without any reason, payment of Rs.1.05 Crore was not made. It was further alleged in the complaint that though the work was going on according to the contract, but ultimately on 25/4/2006, the contract was terminated one sidedly without any reason and the payment of Rs.1.05 Crore remained outstanding and on that basis, the complainant filed the aforesaid complaint against all the accused persons on 14/8/2007 for the offences punishable under sections 406, 420, 120-B and 114 of Indian Penal Code.

4. It appears that in the compliant itself, the

complainant himself straightway asked for inquiry under sec.156(3) of the Code of Criminal Procedure by the police officer of Navrangpura Police Station and ultimately on 30/8/2007, the learned Metropolitan Magistrate, Court No.13, Ahmedabad straightway passed an order for inquiry under sec.156(3) of the Code of Criminal Procedure by the Police Inspector of Navrangpura Police Station and the complaint was sent to Navrangpura Police Station for investigation.

5. It appears from the record that order was passed by the learned Metropolitan Magistrate, Court No.13, Ahmedabad for inquiry under sec.156(3) of the Code of Criminal Procedure on 30/8/2007 and the complaint was directed to be sent to the Police Inspector, Navrangpura Police Station, Ahmedabad and it reached to the concerned police station on the very same day i.e. On 30/8/2007. It also appears from the record that after the complaint was received by the Navrangpura Police Station, the same was registered as M.Case No.9 of 2007 at 9.30 p.m. on

30/8/2007 itself and the statement of the original complainant came to be recorded by the investigating officer at 11.00 p.m. on 30/8/2007 itself. Thereafter, the investigating officer approached the learned Metropolitan Magistrate, Court No.13, Ahmedabad and submitted an application for issuance of warrants under sec.70 of the Code of Criminal Procedure on the very next day i.e. on 31/8/2007 and he obtained the warrants under sec.70 of the Code of Criminal Procedure against all the accused, from the learned Metropolitan Magistrate, Court No.13, Ahmedabad and after obtaining warrants under sec.70 of the Code of Criminal Procedure, on the very day the investigating officer of Navrangpura Police Station went to the accused persons at Mumbai and agreement of settlement came to be entered into between the original accused No.1 Company and Mr.Dharmesh M. Patel, proprietor of M/s.Alpa Transport and M/s.Aastha Engineering Co. dtd.1/9/2007 in presence of investigating officer who had gone to execute warrants of arrest and by the said agreement of

settlement, the original accused No.1 Company – ITD Cementation India Limited agreed to make payment of Rs.1.35 Crores in two installments i.e. Upon withdrawal of the criminal complaint by the original complainant, a sum of Rs.50 Lacs by way of two cheques, both dtd.3/9/2007 drawn on Union Bank of India, Mumbai Branch, one bearing No.102203 in the name of M/s.Alpa Transport for the sum of Rs.35 Lacs and second bearing No.102204, in the name of M/s.Aastha Engineering Co. for the sum of Rs.15 Lacs, the first installment and within 10 days after the original complainant furnish the certified copy of the withdrawal of the complaint and upon furnishing No Due/Claim Certificate in the required format by the original complainant, a further sum of Rs.85 Lacs for second installment. At this stage it is required to be noted that in the agreement of settlement itself it is mentioned in para 6 that on 1/9/2007, ITD Cem and Dharmesh have held settlement talks at ITD Cem's registered office in presence of Police Officers from Navrangpura Police Station, Ahmedabad at which settlement talks the parties have reached at mutual

understanding amongst them. Thereafter, the applicant herein - original accused preferred present application before this Court under sec.482 of the Code of Criminal Procedure for quashing the complaint being Inquiry Case No.49 of 2007 pending in the court of the learned Metropolitan Magistrate, Court No.13, Ahmedabad submitting that the learned Magistrate has erred in passing order under sec.156(3) of the Code of Criminal Procedure. It is further submitted in the application that the learned Magistrate erred in exercising the jurisdiction qua the persons who are not residing within his jurisdiction and therefore, issuance of the warrant by the Magistrate without any investigation is illegal. It is further submitted in the application that in fact a civil suit is pending between the parties which is not disclosed by the complainant in the complaint and for the non-payment of the amount for the alleged execution of the work, no criminal offence is made out and there cannot be said to be any cheating or criminal breach of trust. It is further submitted in the complaint that earlier also complainant has filed one

complaint against the accused persons in which the learned Magistrate passed order for inquiry under sec.202 of the Code of Criminal Procedure which came to be stayed by this Court. It is also further submitted in the application that now the parties have entered into settlement and therefore also, looking to the settlement, no case is made out for criminal prosecution and it was only a civil dispute and therefore, it was requested to quash the impugned complaint in exercise of power under sec.482 of the Code of Criminal Procedure. It is required to be noted that the present application came to be filed before this Court on 11/9/2007

6. The application came up for hearing before this Court on 13/9/2007 and considering para 6 of the agreement of settlement dtd.1/9/2007 to the effect that the settlement talks were held in presence of the police officers of Navrangpura Police Station, Ahmedabad and in the said settlement talks the parties have reached to a mutual understanding amongst them, this court considering the alleged role

played by the Police Inspector / investigating officer of Navrangpura Police Station, observed that over and above the inquiry/investigation, the attempt on the part of the investigating officer to act over and above what is provided under the Code of Criminal Procedure, is nothing but to pressurise the parties and the same is not permissible and thereafter the application was adjourned to 18/9/2007. On 19/9/2007, the application was heard by this Court and considering the manner in which the complaint was filed before the learned Metropolitan Magistrate, Court No.13, Ahmedabad; order for inquiry under sec.156(3) of the Code of Criminal Procedure was obtained on 30/8/2007; warrants under sec.70 of the Code of Criminal Procedure came to be obtained on 31/8/2007 and on 1/9/2007 agreement of settlement dtd.1/9/2007 came to be entered into between the parties in presence of the police inspector / investigating office of Navrangpura Police Station, it appeared to the court that the complaint was filed only for the recovery of the amount of Rs.1.35 Crore and criminal proceedings were misused, this Court

felt that such a practice and conduct on the part of all concerned right from the learned Magistrate upto the concerned investigating officer, is highly deprecable, which cannot be tolerated in the rule of law and therefore, this Court directed the Commissioner of Police, Ahmedabad City to look into the role played by the concerned investigating officer i.e. Police Sub-Inspector / Police Inspector of Navrangpura Police Station and his conduct and to initiate appropriate inquiry against the police officers concerned i.e. P.S.I. and/or other P.I. of Navrangpura Police Station immediately. This Court also observed that looking to the conduct of the police officers, P.S.I. and others and role played by them for settling the dispute and entering into the agreement of settlement, it prima facie appeared that the concerned P.S.I. and everybody have misused their position as police officers in connivance with the original complainant and others for which a strict action can be taken. It is also required to be noted that having realised and apprehending that all the concerned inclusive of P.I. and others (might be the

learned Magistrate), will be in difficulty, the learned advocate appearing on behalf of the applicants – original accused requested, on instruction from their clients to permit him to withdraw the present application. However, this Court did not grant him permission to withdraw the present application and directed the Commissioner of Police, Ahmedabad to look into the role played by the concerned investigating officer of Navrangpura Police Station and others and to report this court with regard to the action proposed to be taken and other proceedings to be initiated / steps to be taken in between and the application was adjourned to 24/9/2007. When this application came up for hearing before this Court on 24/9/2007, Mr.K.T. Dave, learned Additional Public Prosecutor prayed for time to submit a report by submitting that he has also sent his opinion as A.P.P. and appropriate report will be submitted on the next date of hearing. Surprisingly, Mr.M.B. Gandhi, learned advocate appearing for the applicants – original accused brought to the notice of this Court that the complaint itself is now already withdrawn by the

original complainant and the learned Metropolitan Magistrate, Court No.13, Ahmedabad has permitted the original complainant to withdraw the complaint. This conduct on the part of the original complainant and the learned Metropolitan Magistrate, Court No.13, Ahmedabad is required to be considered in light of the fact that earlier when the application was heard by this Court on 19/9/2007 and this Court directed for inquiry against the concerned PI, learned advocate appearing on behalf of the applicants – original accused prayed to permit to withdraw the present application, which was refused by this Court and thereafter, it is submitted that the original complainant has withdrawn the complaint itself. Considering the fact that once an order for inquiry is passed by the learned Magistrate under sec.156(3) of the Code of Criminal Procedure and the complaint is sent to the concerned Police Station / investigating officer and M.Case is registered, no further order recalling the same and/or withdrawing the complaint could have been passed by the learned Metropolitan Magistrate, Court No.13, Ahmedabad, as thereafter, it

becomes the police case and no proceedings are pending before the learned Metropolitan Magistrate, Court No.13, Ahmedabad, this Court felt that the aforesaid things are required to be considered by this court in detail and requires serious consideration and the aforesaid conduct of everybody speaks volumes, this Court directed the registry to call for the Record and Proceedings of Inquiry Case No.49 of 2007 from the court of the learned Metropolitan Magistrate, Court No.13, Ahmedabad and accordingly this court has received the Record and Proceedings from the court of the learned Metropolitan Magistrate, Court No.13, Ahmedabad as well as this court has also received the entire original proceedings from the concerned police station i.e. Navrangpura Police Station. As stated above, now the complaint is already withdrawn by the original complainant and it appears from the record that such an application is alleged to have been given on 14/9/2007 and the order for withdrawal is alleged to have been passed by the learned Metropolitan Magistrate, Court No.13, Ahmedabad on 18/9/007 and by which now

everybody has tried to see that the present proceedings before this Court becomes infructuous. Now, in light of the aforesaid facts and circumstances, the present application is required to be considered by this Court.

7. On considering the averments and allegations in the complaint filed by the respondent No.1 – original complainant in the court of the learned Metropolitan Magistrate, Court No.13, Ahmedabad, it appears that the dispute is with regard to recovery of Rs.1.05 Crore alleged to be due and payable by the applicant No.1 herein pursuant to the agreement / contract entered into between the original complainant and the accused No.1. It is alleged in the complaint that the original complainant was given sub-contract and he has carried the work of Rs.1.20 Crore and payment of Rs.15 Lacs only is made and Rs.1.05 Crore is due and payable. Thus, this seems to be a pure dispute of civil nature for recovery of the amount, still the original complainant filed the criminal complaint in the court of the learned

Metropolitan Magistrate, Court No.13, Ahmedabad for the offences punishable under sections 406, 420, 120-B and 114 of Indian Penal Code and surprisingly he prayed for an inquiry under sec.156(3) of the Code of Criminal Procedure by the Police Officer of Navrangpura Police Station and straightway, the learned Metropolitan Magistrate, Court No.13, Ahmedabad has passed an order on 30/8/2007 for inquiry under sec.156(3) of the Code of Criminal Procedure and sending the complaint to the police inspector, Navrangpura Police Station. As stated above, the complaint being Inquiry Case No.49 of 2007 came to be received by the Navrangpura Police Station and the same was registered as M.Case No.9 of 2007 at about 9.30 p.m. and it appears from the record that statement of the original complainant came to be recorded by the concerned police officer at 11.00 p.m. on 30/8/2007 itself. The anxiety on the part of the concerned investigating officer / police officer, Navrangpura Police Station to record the statement at 11.00 p.m. on the same day is not appreciable and not at all justifiable. This speaks

volumes about the conduct on the part of the concerned investigating officer / Police Inspector of Navrangpura Police Station. Not only that even without any further inquiry / investigation, on the very next day, he obtains order of warrant against the accused persons from the learned Metropolitan Magistrate, Court No.13, Ahmedabad under sec.70 of the Code of Criminal Procedure and he goes to Mumbai and considering para 6 of the agreement of settlement dtd.1/9/2007, he intervenes and settlement is entered into, in which the accused has agreed to pay Rs.1.35 Crores to the original complainant on withdrawal of the complaint. The aforesaid conduct on the part of everybody cannot be tolerated in the rule of law. If for a dispute of recovery of the amount, a criminal complaint and criminal proceedings are used / misused for recovery of the amount, then, nobody would file suit on payment of court fees and after obtaining warrant with the help of police and others, the amount would be recovered without filing suit or without obtaining decree and straightway execution. Such things

cannot be tolerated in the rule of law.

8. As held by the Hon'ble Supreme Court in the recent decision in the case of Inder Mohan Goswami and another Vs. State of Uttaranchal and others, reported in 2007 AIR SCW 6679, issuance of non-bailable warrants involves interference with personal liberty. Arrest and imprisonment means deprivation of the most precious right of an individual and therefore, the courts have to be extremely careful before issuing non-bailable warrants. It is also further held and observed by the Hon'ble Supreme Court in the said decision that non-bailable warrant should be issued to bring a person to court when summons or bailable warrants would be unlikely to have the desired result and this could be when [i] it is reasonable to believe that the person will not voluntarily appear in the Court; or [ii] the police authorities are unable to find the person to serve him with a summon; or [iii] it is considered that the person could harm someone if not placed into custody immediately. It is also further observed by

the Hon'ble Supreme Court that as far as possible, if the court is of the opinion that a summon will suffice in getting the appearance of the accused in the court, the summon or the bailable warrants should be preferred and warrants either bailable or non-bailable should never be issued without proper scrutiny of facts and complete application of mind, due to the extremely serious consequences and ramification which ensue on issuance of warrants. It is also further observed and held by the Hon'ble Supreme Court in the said decision that in complaint cases, at the first instance the court should direct serving of the summons; in the second instance should issue bailable warrant and in the third instance, when the court is fully satisfied that the accused is avoiding the court's proceedings intentionally, the process of issuance of the non-bailable warrant should be resorted to.

9. Now, considering the facts on hand, though from the averments and allegations in the complaint itself it is clear that not only the dispute is with regard to

recovery of the amount, but the contract is also terminated and there are serious disputes, the learned Magistrate ought not to have passed an order of inquiry under sec.156(3) of the Code of Criminal Procedure and ought not to have issued warrant under sec.70 of the Code of Criminal Procedure on the very next day and the aforesaid orders and the warrants have facilitated the complainant and the investigating officer to pressurise the accused persons to enter into settlement under the threat of warrants which cannot be tolerated and the same is highly deprecated. The filing of the complaint by the original complainant for the recovery of the alleged amount under the contract, is nothing but sheer abuse of process of court.

10. It is also required to be noted that the further conduct of the parties more particularly the complainant is also required to be viewed seriously. On 19/9/2007, when this Court passed an order for holding inquiry against the concerned investigating officer and others, learned advocate appearing on

behalf of the applicants, under the instruction of his clients requested to allow him to withdraw the present application, which, in the facts and circumstances of the case, was refused by this Court, and thereafter when the application was heard on 24/9/2007, the learned advocate appearing on behalf of the original accused pointed out to this Court that the original complainant has withdrawn the impugned complaint itself. Thus, everybody has tried to see that the present proceeding becomes infructuous and this court will not be in a position to pass any further order in the present proceedings. This Court called for the record and proceedings of the inquiry Case from the court of the learned Metropolitan Magistrate, Court No.13, Ahmedabad and on considering the record and proceedings and the inquiry register, it prima facie appears to the court that there is some manipulation. The withdrawal application is alleged to be of dtd.14/9/2007 and the order for withdrawal/disposal of the complaint is alleged to be of dtd.18/9/2007. However, considering the order below the complaint being Inquiry Case

No.49 of 2007 dtd.18/9/2007 disposing of the complaint, it appears that the true date of the pursis for withdrawal has been mentioned in the order which is dtd.19/9/2007 mentioned in the alleged order dtd.18/9/2007 disposing of the compliant itself. It is mentioned in the said order that the complainant has submitted pursis dtd.19/9/2007 declaring that he has received the amount from the accused and there is a settlement entered into between the parties. Thus, an attempt is made to make a show that the complaint is withdrawn prior to date of hearing before this Court i.e. before 19/9/2007. Thus, even the conduct and the proceedings before the learned Metropolitan Magistrate, Court No.13, Ahmedabad also require serious consideration. Even the learned Metropolitan Magistrate, Court No.13, Ahmedabad ought not to have permitted the original complainant to withdraw the complaint and/or ought not to have disposed of the complaint itself on the basis of pursis dtd.19/9/2007 and as such the order passed by the learned Metropolitan Magistrate, Court No.13, Ahmedabad disposing of the complaint itself is illegal

and without jurisdiction. Once an order is passed by the learned Magistrate for inquiry under sec.156(3) of the Code of Criminal Procedure and the same is sent to the concerned police station for inquiry and it is registered as M.Case, it becomes a police case and unless and until appropriate report after investigation is submitted by the investigating officer, the learned Magistrate has no jurisdiction to pass any order. After completion of the investigation / inquiry, the concerned investigation officer either may submit appropriate report or file charge-sheet before the learned Magistrate, but till any report or charge-sheet is filed by the investigating officer, the learned Magistrate has no jurisdiction whatsoever more particularly to dispose of the complaint. Under the circumstances, as such the order dtd.18/9/2007 disposing of the complaint on the basis of pursis dtd.19/9/2007, is absolutely illegal and without jurisdiction. Even otherwise, considering the pursis given by the complainant that he does not want to proceed further with the complaint as he has received money from the accused and therefore, the

complaint be disposed of, the learned Metropolitan Magistrate, Court No.13, Ahmedabad ought no to have permitted the original complainant to withdraw the complaint as the learned Metropolitan Magistrate, Court No.13, Ahmedabad ought to have appreciated that the only purpose of the complainant to file the complaint was to recover the amount and nothing further and the learned Metropolitan Magistrate, Court No.13, Ahmedabad ought not to have tolerated such a conduct and as stated above, he should have waited for the appropriate report from the investigating officer, after completion of investigation. This conduct on the part of the the learned Metropolitan Magistrate, Court No.13, Ahmedabad as well as the complainant also require serious consideration. It prima facie appears to this court that pursis submitted by the complainant for withdrawal of the compliant and the order passed by the learned Metropolitan Magistrate, Court No.13, Ahmedabad disposing of the complaint on the basis of purses, are antedated and with a view to see that the present proceeding becomes infructuous.

11. Now, looking to the order alleged to have been passed on 18/9/2007 by the learned Metropolitan Magistrate, Court No.13, Ahmedabad, disposing of the complaint being Inquiry Case No.49 of 2007, the next question which is required to be considered by this Court is what further order is required to be passed in the present proceedings as everybody has tried to see that the present proceeding becomes infructuous. Considering the nature of the order passed by the learned Metropolitan Magistrate, Court No.13, Ahmedabad and as stated above, the order passed by the learned Metropolitan Magistrate, Court No.13, Ahmedabad quashing the complaint is illegal and without jurisdiction, this Court could have set aside the said order and restored the complaint to file. However, on merits, this Court is satisfied that filing of the complaint by the original complainant before the learned Metropolitan Magistrate, Court No.13, Ahmedabad is nothing but abuse of process of court and the criminal proceedings and therefore even otherwise this Court would have quashed the

complaint in exercise of the powers under sec.482 of the Code of Criminal Procedure, as by filing the complaint, the original complainant has tried to convert the civil dispute into a criminal dispute, where the basic dispute was for the recovery of the amount alleged to be due and payable by the original accused No.1 to the complainant and therefore, this court is not passing any further order in respect of the order passed by the learned Metropolitan Magistrate, Court No.13, Ahmedabad disposing of the complaint.

12. However, looking to the conduct on the part of the complainant, concerned police inspector / police inspector of Navrangpura Police Station and the learned Metropolitan Magistrate, Court No.13, Ahmedabad, as narrated hereinabove and looking to the abuse of process of the court and the criminal proceedings, this court deems it fit to issue direction to the Commissioner of Police, Ahmedabad to complete the departmental inquiry against the concerned investigating officer of Navrangpura Police

Station which has been initiated as per the affidavit of Dy.Commissioner of Police, Ahmedabad dtd.28/9/2007 and submit compliance report before this Court and the said inquiry to be completed within a period of four months from the date of receipt of this order and thereafter submit the compliance report before this Court immediately. At this stage, it is also required to be noted that in the affidavit dtd.28/9/2007, the Dy.Commissioner of Police, Ahmedabad has submitted that the Assistant Commissioner of Police, B-Division has already initiated preliminary inquiry and that considering the seriousness of the matter, the concerned Police Sub Inspector Mr.N.D. Balat, who was investigating officer of the above case, is suspended vide order dtd.26/9/2007 passed by the Commissioner of Police, Ahmedabad City.

13. Looking to the conduct, the record and proceedings and order passed by the learned Metropolitan Magistrate, Court No.13, Ahmedabad passing initial order of inquiry under sec.156(3) of the Code of

Criminal Procedure dtd.30/8/2007, issuing warrants under sec.70 of the Code of Criminal Procedure on 31/8/2007 and the facts narrated hereinabove, the conduct and the orders passed by the learned Metropolitan Magistrate, Court No.13, Ahmedabad requires serious consideration on administrative side. Under the circumstances, the registry is directed to place the entire records of the present proceedings along with the record and proceedings of Inquiry Case No.49 of 2007 (which is now to be placed in sealed cover), before the learned Administrative Judge for his kind consideration for appropriate action inclusive of departmental inquiry against the learned Metropolitan Magistrate, Court No.13, Ahmedabad. Office to place this matter before the Administrative Judge immediately. With the aforesaid observations and directions, the present proceedings are disposed of.

(M.R. SHAH, J.)

rafik